

MAGISTRATE JUDGE STROMBOM

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,)	NO. CR07-5640
)	
Plaintiff,)	
)	DEFENDANT'S TRIAL BRIEF
vs.)	
)	
DAVID M. THIERMAN,)	
)	
Defendant.)	
)	
)	

I. STATEMENT OF THE CASE

According to the police reports provided by the government, on June 3, 2007, Mr. David Thierman telephoned the store manager at the McChord AFB Commissary to report an employee, Kenneth Piercy was observed engaged in criminal behavior. Mr. Piercy subsequently filed this complaint of stalking and harassing alleging other incidents whereby Mr. Thierman harassed or stalked him.

Mr. Thierman has been charged with two counts of intentionally and repeatedly harassing Kenneth Piercy with the intent to frighten him in violation of 18 U.S.C. § 7 & 13, and RCW 9A.46.110. Mr. Thierman entered a plea of not guilty to these charges, and trial is scheduled for January 28, 2008.

1 **II. MOTIONS AND OBJECTIONS**

2 1. Exclusion of Witnesses. Pursuant to Fed. R. Evid. 615, Mr. Thierman requests
3 that the Court order all potential government witnesses excluded from the courtroom during
4 all portions of the trial, except as such witnesses are called to the witness stand to testify.

5 2. Exclusion of Prior Bad Acts Evidence, and Admissibility of Good Character
6 Evidence Related to Mr. Thierman. The defense previously requested notice of any prior bad
7 act or other Fed. R. Evid. 404(b) evidence the government intended to admit against Mr.
8 Thierman at trial. The government has not provided specific notice of any such evidence.
9 The defense objects to any attempt to introduce of such evidence at this stage.

10 The failure of the government to provide notice of bad acts comes as no surprise to the
11 defense: we intend to present evidence of Mr. Thierman's good character, specifically his
12 reputation for truthfulness and peaceableness, as authorized by Fed. R. Evid. 404, 405 and
13 608.

14 **III. NOTICE AND REQUESTS FOR PRODUCTION**

15 1. Statements.

16 Pursuant to Fed. R. Cr. P. 16, Mr. Thierman requests notice and production of any
17 written or oral statements made by him that the government intends to introduce at trial.

18 2. Notice of Bad Character Evidence Related to Kenneth Piercy. The defense
19 notes its intention to impeach any evidence from the complainant with his reputation and
20 character for untruthfulness. Fed. R. Evid. 404, 405 and 608.

21 DATED this 22nd day of January, 2008.

22
23 Respectfully submitted,

24
25 /s/ Russell V. Leonard
26 Russell V. Leonard
Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on the date below, I electronically filed the foregoing Defendant's Trial Brief, Jury Instructions (Cited & Uncited), and Voir Dire with the Clerk of Court using the CM/ECF system which will send notification of such filing to the Assistant United States Attorney of record for the United States. I hereby certify that if the attorney of record for the United States is not a CM/ECF participant, that I have served them via facsimile.

DATED this 22nd day of January, 2008.

/s/ Amy Strickling
Amy Strickling